

REMARKS/ARGUMENTS

The present response is being filed within two (2) months after the mailing date of the final rejection.

Claims 1, 3-20, 22-24 and 27 remain in the application.

5        Claims 1 and 5 are currently amended.

Claims 18-20 and 20-24 stand allowed.

Claim Rejections Under 35 USC § 103

Claims 1, 3, 4, 9, 12, 13 and 27 were rejected under 35 USC § 103(a) over US Patent 5,503,526 to Nells, et al.

10        Claim 8 was rejected under 35 USC § 103(a) over US Patent 6,173,928 to Coats.

**Claim 1** as previously presented is clearly allowable over Nells, which teaches a frame 10 supported by legs 11. Column 4, lines 7-9.

Response To Arguments

15        The examiner states, "Also, Applicant's 'permanently bendable' legs cannot be bent after manufacture. The legs are only bendable before the filler material is hardened." See, Office Action dated January 21, 2010, at page 4, Response to Arguments.

20        The examiner is confusing the present invention with another invention. Applicant's 'permanently bendable' legs are "***solid***" legs that are "a solitary nonextensible member of single-piece construction having a substantially uniformly ***solid*** round cross-section extended substantially continuously between opposing first and second end portions and being substantially independently permanently bendable in three dimensions along substantially an entire length thereof between the first and second end portions." See, e.g., claim 1.

25        Thus, the claimed invention does **not** have "filler material" and **remains** always "permanently bendable."

Claim 1 is amended to use the transitional phrase "consisting of" in the plurality of support rods, whereby each rod "***consisting of*** a solitary nonextensible member of single-piece construction having a substantially uniformly ***solid round*** cross-section."

It is established law that the transitional phrase "consisting of" excludes any element, step, or ingredient not specified in the claim. *In re Gray*; *Ex parte Davis*. Therefore, the "**tubular** body elements 32" of legs 11 and "**square** cross-sectional shape" as **required** by Nells are excluded from consideration as being not specified in the claim. Therefore, the present invention is

5    patentable as reciting the each rod

Furthermore, the present invention is patentable over Nells, which teaches the elongate tubular body elements 32 of legs 11 having resilience. Column 4, line 58-column 5, line 13 (emphasis added). The term "resilience" means, 1: "the capability of a strained body to recover its

10    size and shape after deformation caused especially by compressive stresses;" 2: "an ability to recover from or adjust easily to misfortune or change." See, e.g., Merriam-Webster's Collegiate Dictionary.

Therefore, the term "resilience" means exactly the opposite of "permanently bendable" because a leg having "resilience" will "recover its size and shape after deformation" in contrast to

15    being "permanently bent," as in the present invention.

Thus, Nells' tubular body elements 32 of legs 11 have resilience. In clear contrast to the "permanently bendable" rods of the present invention, Nells' legs 11 **cannot** be "substantially independently **permanently bendable** in three dimensions along substantially an entire length thereof," as recited in claim 1. Rather, the "resilience" of Nells causes legs 11 to be only

20    **temporarily bendable** and able to recover when the load is removed.

For at least all of the above reasons, that (1) the legs 11 of Nells are of **tubular** and "**square** cross-sectional shape"; (2) legs 11 must be "slidable" in internal channels 19 of support collars 18 in order to provide "appropriate extension" to "establish the desired vertical position,"

25    claim 1 is believed to be allowable as previously presented; and (3) legs 11 have **resilience** whereby legs 11 are not "permanently bendable," legs 11 of Nells do not make the present invention obvious under 35 USC § 103(a).

**Claims 3, 4 and 8** are allowable at least as depending from allowable base claim 1.

**Claim 9** is different in scope from allowable claim 1. However, the above arguments directed to claim 1 are sufficiently applicable to claim 9 as to make repetition unnecessary. Thus, for each of the reasons above, claim 9 is believed to be allowable over the cited art.

5       **Claims 12, 13 and 27** are allowable at least as depending from allowable base claim 9.

Allowable Subject Matter

The examiner is thanked for indicating the allowability of claims 18-20 and 20-24.

10       The examiner is also thanked for indicating the allowable subject matter of claims 5-7, 10, 11 and 14-17, and further indicating that said claims would be allowable if rewritten in independent form including the limitations of the base claim and any intervening claims.

Claim 5 is written in independent form including the limitations of base claim 1 and any intervening claims, there being none.

15       Applicant believes claims 6, 7, 10, 11 and 14-17 are allowable as depending from allowable base claims 1 and 9. Therefore, applicant respectfully declines to amend said claims at this time.

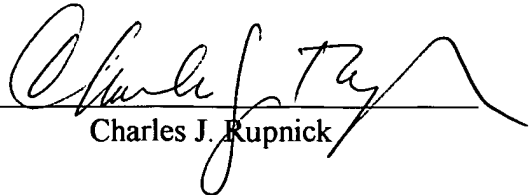
The claims now being in form for allowance, reconsideration and allowance is respectfully requested.

20       If the Examiner has questions or wishes to discuss any aspect of the case, the Examiner is encouraged to contact the undersigned at the telephone number given below.

Respectfully submitted,

25

Attorney:

  
Charles J. Rupnick

30

Registration No.: 43,068  
Date: February 16, 2010  
Post Office Address: PO Box 46752  
Seattle, WA 98146  
Telephone: (206) 439-7956  
Facsimile: (206) 439-3223